IN THE HIGH COURT OF BOMBAY AT GOA

FIRST APPEAL NO.164/2002

1 Smt. Shanta T. Shenvi Kakodkar,
w/o late Tulshidas S.S.
Kakodkar, major of age,

2. Shri Siddesh T. Shenvi
Kakodkar, s/o. late Tulshidas S.S.
Kakodkar, major, aged 22 years.

3. Mast. Mahesh T. Sinai Kakodkar,
minor aged 17 years, through his
mother and next friend the
abovenamed Smt. Shanta T. Sinai
Kakodkar,
All residing at H.No.153,
Kamla Sadan Cacora. ..... Appellants.

Vs.

1. Shri Pandharinath Gurgurao
Gaonkar, major of age,
driver, Resident of House
No.542, Kirlpal, Dabal.

2. Shri Anant Voiro Gaunkar
major of age, resident of
House No.751, Kirlpal, Dabal.

3. New India Assurance Co.Ltd.,
Margao Branch,
Margao, Goa. ..... Respondents.

Mr. J.P. Mulgaonkar, Advocate for the appellants.

None for the respondents.

CORAM : F.I. REBELLO, J.

DATE : JULY 18, 2003.

ORAL JUDGMENT :

The appeal is by the dependants of the deceased. It is not necessary to go into various

controversies. The Claims Tribunal accepted the evidence of AW.2, Inchalmath and fixed the dependancy at Rs.19,793/- and used the multiplier of 13 and accordingly, awarded the compensation of 2,57,313/- towards dependancy. This was based on the fact that the income of the deceased would be Rs.29,690/-. This was clearly an error on the part of the learned Claims Tribunal. In his evidence Shri Inchalmath has assessed the deceased's gross income to be Rs.84,055/- and after deductions, the taxable income to be Rs.59,388/-. Considering tax clause, for the purpose of tax, he deducted 50 % towards share of spouse and that is how the amount has been worked out to Rs.29,690/-. The annual income of the deceased therefore will be Rs.59,388/-. Thus there was clearly an error on the part of the learned Claims Tribunal. Considering the above, to the sum of Rs.2,72,000/- as awarded, will have to be added a further sum of Rs.2,50,000/-, which would make total liability of Rs.5,22,000/-.

In the light of that, the following Order :

The Award of the Claims Tribunal is partly allowed. The amount awarded in the sum of Rs.2,72,000/- is modified to Rs.5,22,000/- which will carry same interest awarded by the Claims Tribunal. In so far as additional amount of Rs.2,50,000/-, the interest payable

would be at the same rate, from the date of claim petition, till payment. The amount to be deposited within 12 weeks from today.

The appeal is partly allowed. Appeal stands disposed of.

F.I. REBELLO, J.

ssm.